

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

FENTON et al

Atty. Ref.: **4223-8**

Serial No. **10/590,456**

Group: **(Unknown)**

Filed: **October 31, 2006**

Examiner: **(Unknown)**

For: **METHOD AND APPARATUS FOR GENERATING A MIST**

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May 15, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST UNDER RULE 28(C) TO ACCEPT PAYMENT AS LARGE ENTITY OF A
PREVIOUS FEE PAID IN GOOD FAITH BUT ERRONEOUSLY AS SMALL ENTITY**

Sir:

The applicant hereby requests under 37 CFR §1.28(c) that the Office accept payment as large entity of a previous fee paid in good faith but erroneously as small entity. Specifically, it has now been determined that a loss of small entity status for this application occurred in November 2005.

The failure to notify the Office of such potential loss of small entity status and the erroneous payment of fees subsequent thereto occurred without deceptive intent on the part of the applicant.

Following is a chart identifying and itemizing each fee previously erroneously paid as a small entity:

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<u>Type of Fee</u>	<u>Date Small Entity Fee Paid</u>	<u>Current Large Entity Fee Amt.</u>	<u>Small Entity Fee Amt. Paid</u>	<u>Deficiency</u>
National Filing Fee	Aug. 24, 2006	\$ 300.00	\$ 150.00	\$ 150.00
Examination Fee	Aug. 24, 2006	\$ 200.00	\$ 100.00	\$ 100.00
Search Fee	Aug. 24, 2006	\$ 400.00	\$ 200.00	\$ 200.00
Rule 492(2) Surcharge	Aug. 24, 2006	\$ 130.00	\$ 65.00	\$ 65.00
Excess Claims Fee	Aug. 24, 2006	\$ 1,500.00	\$ 750.00	\$ 750.00

Total
Deficiency: \$ 1,265.00

A credit card authorization covering the total fee deficiency in the chart above is attached.


In order to expedite consideration of this request, however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith to our Account No. 14-1140.

An early and favorable reply to this Request is solicited.

Respectfully submitted,

NIXON & VANDERHYTE P.C.

By: _____



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